

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTIETH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION NO : 11023 of 2004

Between:

- 1 P.Gowtham Reddy, Advocate,
S.N.Puram, Vijayawada.
- 2 P.Mallaiah, Advocate,
S/o.P.R.K.N.Sastry, S.N.Puram, Vijayawada.
- 3 Koganti Satyanarayana @ Satyam, s/o K.Ramaiah,
Krishnalanka, Vijayawada.

..... PETITIONERS

AND

- 1 Director General of Police, State of A.P., Hyderabad.
- 2 Commissioner of Police and Deputy Inspector General, Vijayawada

City, Vijayawada.

- 3 Asst.Commissioner of Police, Division-II, Vijayawada.
- 4 Inspector of Police, North Circle, Vijayawada.
- 5 S.I. of Police, S.N.Puram, (L&O) Police Station, Vijayawada.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ of Mandamus or any other appropriate writ or order or direction declaring the proceedings of the Commissioner of Police and Deputy Inspector General of Police, Vijayawada City in C.No.5/C.P. Camp/2004 dated 17-1-2004 as arbitrary, illegal and unconstitutional.

Counsel for the Petitioners: MR.K.SURESHREDDY

Counsel for the Respondents: GP FOR HOME

The Court made the following :

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ORDER:

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Law and Order, Satyanarayanapuram P.S. registered Crime No.798 of 2003 under Sections 388, 194, 195, 211 read with Section 109 and 120-B of the Indian Penal Code, 1860, against the petitioners. When the case was under investigation, the second respondent by impugned order, being C.No.5/C.P.Camp/2004, dated 17.01.2004, directed the third respondent to take over the investigation of Crime No.798 of 2003 duly incorporating Sections 3 and 4 of the A.P.Control of Organized Crime Act, 2001 (A.P.COCA). Assailing the same, the present writ petition is filed.

When the matter was heard at the interlocutory stage, the learned Senior Counsel for the petitioners, Sri.T.Bal Reddy, brought to the notice of this Court that the third respondent herein filed a memo on 23.09.2004 under Section 321 of the Code of Criminal Procedure, 1973, informing the Court of Special Judge for offences under A.P.COCA that there is no sufficient material to invoke the provisions of A.P.COCA. A copy of the memo filed before the trial Court is filed, which reads as under.

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**MEMO FILED U/S.321 CR.P.C ON BEHALF OF PROSECUTION TO DELETE
SECTIONS 3 & 4 OF AP COCA 2001 IN CR.NO. 798/2003 OF S.N.PURAM P.S.,**

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This is to submit that on 27.12.2003 a case in Cr.No.798/2003 U/s.194, 195, 388, 211 R/w.109 & 120(B) IPC was registered against the above accused in L&O S.N.Puram P.S. Later on 18.01.2004 Sections 3 & 4 of A.P.COCA Act were added and a memo was filed in the Hon'ble court to the same extent.

During the course of investigation material evidence collected against the above accused is found to be insufficient to invoke the provisions under AP COCA. The scrutiny at different levels also reveal the same. Hence the Secs.3 & 4 of A.P.COCA are deleted.

Hence it is requested that the Hon'ble Court may be pleased to record the same and return the entire record for presentation before the Hon'ble III M.M. Court, Vijayawada.

Be pleased to consider.

Asst. Commissioner of Police,
Division-II, Vijayawada City.

In view of the above, this Court need not go into the merits of the case, as the petitioners are now cannot be charged for the offences punishable under Sections 3 and 4 of A.P.COCA.

The writ petition, is therefore, dismissed as infructuous. No costs.

(V.V.S.RAO, J)

20.06.2005

vs

To

- 1 Director General of Police, State of A.P., Hyderabad.
- 2 Commissioner of Police and Deputy Inspector General, Vijayawada

City, Vijayawada.

- 3 Asst.Commissioner of Police, Division-II, Vijayawada.
- 4 Inspector of Police, North Circle, Vijayawada.
- 5 S.I. of Police, S.N.Puram, (L&O) Police Station, Vijayawada.
- 6 Two CCs to the G.P for Home, High Court of A.P., Hyderabad. (O.U.T)
- 7 2 CD copies